IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3527 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NATIONAL INSURANCE CO. LTD.

Versus

GAURIBEN KANUBHAI SARVAIYA W/O LATE KANUBHAI RAMJIBHAI

Appearance:

MR SHASHIKANT S GADE for Petitioner

MR SANDEEP N BHATT for Respondent No.1 & 2

MR PRAVIN GONDALIYA for Respondent No. 5

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 23/04/2001

ORAL JUDGEMENT

Heard Mr. S.S.Gade learned advocate for the appellant; Mr. S.N.Bhatt learned advocate for respondent nos. 1 and 2 and Mr. Pravin Gondaliya learned advocate

for respondent no.5. Respondent no.4 is served. By consent of the parties, the appeal is taken up for final hearing.

2. This is an appeal under Section 173 of the Motor Vehicle Act, 1988 (for short "the Act") at the instance of original opponent no.3 - insurer of the offending vehicle which was involved in the accident in question.

3. The appellant herein challenges the impugned award passed by the M.A.C.Tribunal, Rajkot dated 9.10.2000 below Exh.7 in the proceedings of M.A.C.Petition No. 102 of 2000 under Section 140 of the Act.

In the above stated premise, the impugned award passed is in the nature of interim award and subject to adjustment against the award which may be passed by the Tribunal in the pending proceedings of M.A.C.Petition No. 102 of 2000.

4. That no useful purpose would be served by keeping the appeal pending though it is admitted and ultimately the impugned award shall be adjusted with the final award passed by the Tribunal in the pending proceedings of M.A.C.Petition No. 102 of 2000. However, an undertaking of the original claimant - opponent no.1 shall be taken to the effect that that opponent no.1 as original claimant of M.A.C.Petition No. 102 of 2000 pending in the M.A.C.Tribunal, Rajkot shall not abandon the claim nor shall withdraw or shall permitted to be dismissed for default or for any other cause and the claimant shall obtain the decision on merits in the said claim petition.

5. On taking above stated undertaking within four weeks from the date of order from original claimant, the amount deposited by present appellant - Insurance Company be disbursed to the original claimant on furnishing by him/her appropriate security to the satisfaction of the Tribunal.

6. Subject to above stated observation and direction stated hereinabove, appeal stands dispossed of as rejected with no order as to costs.

(A.K.Trivedi,J.)

(vipul)